



**THE ATTORNEY GENERAL
OF TEXAS**

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AUSTIN, TEXAS 78711

May 21, 1969

Honorable J. W. Edgar
Commissioner of Education
201 East 11th Street
Austin, Texas

Opinion No. M- 401

Re: Construction of S.B. No.
35, Acts 61st Legislature,
Regular Session, providing
for operation of schools
at the various units of
the Department of Correc-
tions.

Dear Dr. Edgar:

You have requested our opinion concerning whether in estimating the funds needed to finance the Department of Corrections schools authorized by S.B. No. 35 (Acts 61st Leg. R.S. 1969, ch. 17, p. 47), codified as Art. 6203b-2, V.C.S., the School Fund Budget Committee may include the costs entailed for the schooling of incarcerated adults who are not high school graduates.

We answer your question in the affirmative. Section 1 of S.B. No. 35 authorizes the Department of Corrections to establish and operate schools at the various units of the Department of Corrections. Section 2 provides that, "All persons incarcerated in the Department of Corrections who are not high school graduates are eligible to attend such schools." Section 4 provides that the total cost of operating such schools shall be borne entirely by the state; that such costs shall be paid from the Foundation School Program Fund; and that such costs shall be considered annually by the Foundation School Fund Budget Committee and included in estimating the funds needed for the purposes of the Foundation School Program. Section 4 further provides that an estimate of the 1968-1969 school year shall be certified to the Comptroller by the Committee within 30 days after the effective date of the Act.

You have advised that since the inception and implementation of the Foundation Program Act in 1949, the term "a child of school age" has been regarded and construed to mean and include children who are not over 21 years of age at the

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beginning of the scholastic year.

The Legislature had the power and the right to enact said S.B. No. 35. This Act expressly provides that all persons incarcerated in the Department of Corrections who are not high school graduates are eligible to attend such schools, and further provides that the costs of such schools shall be considered annually by the Foundation School Fund Budget Committee and included in estimating the funds needed for purposes of the Foundation School Program.

It is clear that in enacting S.B. No. 35 the Legislature intended for the Foundation School Fund Budget Committee to include in its estimate the costs entailed for the schooling of all persons over 21 years of age as well as all persons under 21 years of age who may be incarcerated in the Department of Corrections and are not high school graduates. Article 6203b, being a remedial or curative statute, must be given a liberal interpretation to carry out the legislative intent. 53 Tex.Jur.2d 303, Statutes, §197.

S U M M A R Y

In estimating the funds needed to finance the Department of Corrections schools authorized by S.B. No. 35, Acts 61st Leg. R.S. 1969, ch. 17, p. 47 (codified as Art. 6203b-2, V.C.S.), the School Fund Budget Committee shall include the costs entailed for the schooling of all persons both over and under 21 years of age who may be incarcerated in the Department of Corrections and are not high school graduates.

Very truly yours,



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APPROVED:
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